



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. 3 OF 2019

CYPRIAN ANDAMA.....PETITIONER

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

INSPECTOR GENERAL OF POLICE.....3RD RESPONDENT

AND

ARTICLE 19 EAST AFRICA.....INTERESTED PARTY

RULING

1. The Interested Party, Article 19 East Africa, through the notice of motion dated 16th August, 2021 brought under Order 45 Civil Procedure Rules, 2010 seek a review of the judgement delivered by this Court on 13th May, 2021.

2. When the application came up for hearing on 9th September, 2021 the advocates for Cyprian Andama (Petitioner), the Director of Public Prosecutions (1st Respondent), and the Inspector General of Police (3rd Respondent) indicated that they were leaving the matter to the Court. The Attorney General (2nd Respondent) was not represented.

3. At paragraph 3 of this court's judgment delivered on 13th May, 2021, it was stated that:

“3. The Director of Public Prosecutions, the Attorney General and the Inspector General of Police are named as the respective 1st to 3rd respondents. Article 19 East Africa was named as an Interested Party but did not participate in the proceedings.”

4. The Applicant seeks to review the statement that it did not participate in the proceedings on the ground that the statement is an error apparent on the face of the record. The Applicant's case is that contrary to the finding by the Court that it not participate in the proceedings, the record shows that it filed submissions dated 29th May, 2019 and was represented in Court on 29th January, 2019 and 3rd April, 2019.

5. I have reviewed the record once more and find that an advocate represented the Applicant in Court on 29th January, 2019 and 3rd April, 2019. Although the Applicant's submissions dated 28th May, 2019 are not in the court record, the Applicant has annexed to the application submissions received by the Court on 29th May, 2019.

6. From the evidence placed before the Court, it is clear that the statement in the judgment that the Interested Party did not participate in the proceedings is outrightly erroneous. It is therefore an error on the face of the record and the application for review is merited and succeeds.

7. The application dated 16th August, 2021 is allowed so that paragraph 3 of this Court's judgment dated 13th May, 2021 is reviewed. The statement that **“Article 19 East Africa was named as an Interested Party but did not participate in the proceedings”** is expunged from the judgment. The said statement is substituted with the statement that **“Article 19 East Africa was named as an Interested Party and supported the petition through submissions dated 28th May, 2019.”**

8. The parties will meet their own costs in respect of the application.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 21ST DAY OF SEPTEMBER, 2021.

W. korir,

Judge of the High Court